

REMARKS/ARGUMENTS

I. Status of Claims

Claims 14-16, 23 and 34 are pending. No claim has been amended in this Response.

II. Claim Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 14-16, 23 and 34 as allegedly unpatentable over Mathur (U.S. Patent No. 5,643,600) in combination with Dodd or Schueller. Applicants respectfully traverse this rejection.

Mathur relates to oil-filled paucilamellar lipid vesicle containing at least one non-phospholipid amphiphile as the primary lipid of the vesicle bilayers and avocado oil unsaponifiables. The Examiner relies upon Mathur as teaching lipid vesicles made of glyceryl mono and diesters and further contain cholesterol and sodium lauryl sulfate. Applicants respectfully submit that Mathur fails to teach or suggest compositions containing cholesterol. Indeed, Mathur specifically teaches the drawbacks of using cholesterol in lipid vesicles. See col. 2 lines 34-36. Indeed, the object of Mathur's invention appears to be finding a substitute for sterols. See col. 2, lines 26-59. In response to Applicants' arguments, the Examiner states that "Mathur's comments at this location only pertain to most edible and pharmaceutical preparations and not to cosmetic compositions for hair." This is irrelevant since Mathur is related to formulations of lipid vesicles for cosmetic, edible, dermatological and pharmaceutical use. One of ordinary skill in the art would not be motivated to incorporate a sterol into the Mathur compositions, indeed, there is a clear teaching away from the incorporation of sterol by Mathur.

This teaching away is further supported by Examples 1, 2 and 5. Example 1, vehicle D, is the only formulation containing a sterol, i.e., cholesterol. Mathur specifically teaches that vehicle D was not as homogenous as vehicle A which did not contain cholesterol. Accordingly, Mathur clearly teaches away from the incorporation of a sterol.

III. Conclusion

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. If the Examiner feels that a discussion with Applicants' representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants' representative at the number provided below.

Serial No. 10/692,490

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/J&J2047USDIV/EMH. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

/Erin M. Harriman/

Erin M. Harriman
Reg. No. 40,410
Attorney for Applicants

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-3619
Dated: January 25, 2006